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The meeting opened at 6:30 p.m.

Present were: Brown (Chair); Magenheim (Clerk); McDonough, Boness & Bargnesi (Members); Bordonaro, Rechisky and Wilson (Associate Members). Also present were Town Counsel Thomas Urbelis & Carol McGravey.

From 6:30-7:30 pm Attorneys Urbelis & McGravey conducted training for the ZBA regarding open meeting law and Ch. 40A.

Petition No.: Z-14-122

Premises affected: 31 Argilla Road

Petitioner: Lau

Relief Requested: Variance from §4.1.2 to construct a new house & raze the existing home on a lot that lacks frontage Present were: Brown (Chair); Magenheim (Clerk); McDonough, Boness & Bargnesi (Members); Bordonaro, Rechisky and

Wilson (Associate Members).

Brown informed the Board that he spoke with the applicant immediately prior to the start of tonight's meeting to explain that they also needed to apply for a special permit under Section 3.3.5. Then the application can be modified and re-advertized for the 10/2/14 meeting. Mr. Lau agreed and requested that the Board continue the hearing without opening to 10/2/14 in order for him to add Section 3.3.5 to his application & to re-advertize. Rechisky made a motion to continue the hearing without opening to 10/2/14. Magenheim seconded the motion & the Board voted unanimously (9-0) to continue without opening to 10/2/14.

Rechisky left for the remainder of the meeting.

Petition No.: Z-14-112

Premises affected: 89-93 Main Street

Petitioner: D'Agostino's

Relief requested: Special permits §3.1.3.C.12.b [fast-food restaurant] & §3.1.3.F.8 [outdoor seating]

Present were: Brown (Chair); Magenheim (Clerk); McDonough, Boness & Bargnesi (Members); Bordonaro and Wilson

(Associate Members).

Paul & Lisa D'Agostino of William Street, Andover, along with their sons, were present to request special permits to operate a fast-food restaurant and for the temporary & seasonal placement of outdoor tables & chairs. The family business, established in 1968, currently has one location in Winchester. They wish to expand their sandwich / deli business also is a small market that sells gourmet foods & cold cuts by the pound. The majority of the business is take-out. The hours of operation will be 7 am – 9 pm seven days per week. Delivery service is also available. The Board discussed traffic flow, with delivery drivers parking behind the building, the floor plan & the outdoor seating plan. They will make minimal changes to the existing space, currently occupied by Dunkin Donuts, and place 4 tables (8 chairs total) on the sidewalk at the front of the building. There are 10 existing seats inside that will remain. Supply deliveries will be completed in the morning via the back entrance. There being no other qe4ustions or comments from the Board or the public, McDonough made a motion to waive the site view & close the public hearing. Magenheim seconded the motion & the Board voted (5-0) to waive the view & close the hearing. The Board then proceeded to deliberate. Magenheim made a motion to approve both special permits with the condition that the location of the outdoor tables is safe in relation to the abutting business' outdoor seats/tables. The Board discussed imposing a condition that the tables/chairs cannot be any closer than a certain distance to the sidewalk or a maximum distance from the building, so as not to obstruct the public sidewalk. Also discussed were trash receptacles [on Main Street, the Town manages the trash bins]

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in addition to delivery restrictions. Magenheim made a motion to approve both special permits with the conditions that the deliveries be restricted between 8 pm - 7 am via the side door in conformance with the layout plan, that signage shall be in conformance with the bylaw and that there shall be no drive-through service. Boness seconded the motion & the Board voted (5-0) to approve the special permits. Magenheim will write the decision.

Petition No.: Z-14-120

Premises affected: 7 Belle Isle Way

Petitioner: Margolin

Relief requested: Variance §4.1.2 &/or Special permit §3.3.5 to extend deck that will encroach into side setback Present were: Brown (Chair); Magenheim (Clerk); McDonough, Boness & Bargnesi (Members); Bordonaro and Wilson

(Associate Members).

Mr. & Mrs. Margolin represented themselves & submitted photos of their existing deck. They wish to increase the deck leaving a 9' side setback where 15' is required. This side of their lot is wooded, providing a buffer to the abutter. The stairs will be moved to face the opposite direction. The Board discussed the stairs, whether or not trees will be removed [no] and the impact on the direct abutter. No one else was present on behalf of the petition. The Margolins spoke with the direct abutter, who voiced no opposition. There being no other questions or comments from the public or Board, Magenheim made a motion to waive a site view & close the public hearing. McDonough seconded the motion & the Board voted (8-0) to waive the view & close the hearing. The Board then proceeded to deliberate. The Board discussed the hardship relating to the shape of the lot, along with the location of the house on the lot, as well as the existing trees providing screening. Magenheim argued that the lot is large & alternate locations exist. Brown noted the configuration of the house limiting alternatives to the currently proposed deck extension. Brown suggested that they could place the usual conditions of substantial conformity to the plot plan, relocation of the stairs & that no trees will be removed. Magenheim made a motion to grant the variance with the aforementioned conditions. Boness seconded the motion & the Board voted (5-0) to grant the variance with conditions. Bargnesi will write the decision.

Petition No.: Z-14-124

Premises affected: 7 Appletree Lane

Petitioner: Chiesa

Relief requested: Variance 4.1.2 &/or Special Permit 3.3.5 to connect the non-conforming, detached garage to house Present were: Brown (Chair); Magenheim (Clerk); McDonough, Boness & Bargnesi (Members); Bordonaro and Wilson

(Associate Members).

Claire & John Chiesa represented themselves in their request to construct additions & alterations, including connecting the existing, non-conforming detached garage to the house. The ranch house & garage, in SRB district, were built in 1952 on a triangularly shaped lot. They informed the Board that a previous 4' extension was constructed off the rear of the house. They have obtained Conservation Commission approval (DA-2014-19) due to the creek that runs behind the house. The additions/alterations will not be any closer to the lot lines than the existing house and the 2nd story addition will not be above the garage, but above the existing first floor with a single-story addition on a foundation off the rear of the house. Brian Frickenberg, abutter at 5 Appletree Ln, spoke in support. There being no other questions or comments from the public or the Board, Boness made a motion to waive the site view & close the public hearing. McDonough seconded the motion and the Board voted (8-0) to waive the view & close the hearing. The Board then proceeded to deliberate. Brown noted that the existing house & detached garage are both non-conforming. However, he feels that a special permit is not appropriate due to the previous 4' extension of the house that likely increasing the non-conformity of the garage. Due to the irregular shape of the lot & the wetlands, a hardship exists due to the shape & soil

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conditions. Bones made a motion to grant the variance with the conditions that the additions/alterations shall be constructed in conformance with the plot plan, floor plans & elevations submitted and to deny the special permit as not applicable. Magenheim seconded the motion & the Board voted (5-0) to grant the variance & deny the special permit as moot. McDonough will write the decision.

Petition No.: Z-14-125

Premises affected: 127 Reservation Road

Petitioner: Verizon

Relief requested: Special Permits under Art. VIII, §§6.1 & 9.4 to install wireless antennas inside steeple & equipment

shelter

Present were: Brown (Chair); Magenheim (Clerk); McDonough (Member); Bordonaro and Wilson (Associate Members).

Brown announced Members Bargnesi & Boness' recusal and designated Wilson & Bordonaro to sit as the alternates. Attorney Carl Gehring represented the applicant and submitted a list of the names of team members present tonight. Gehring gave an overview of the proposal: existing church in SRB district with other providers' wireless antennas installed, Verizon wants to install antennas in the steeple to address coverage gaps in the area. The installation complies with all FCC guidelines regarding health. Aside from the antennas in the steeple, there will be equipment in the basement and a back-up generator + 2 HVAC condensers in a shed that they will construct. The shed will have a portion reserved for the church's private use. The noise is negligible (below DEP standards). It will also be screened by shrubbery and designed to mimic the historic carriage house that once stood on the church property. There are two other wireless carriers in the steeple & Verizon will be at the top. There will be no visible modifications to the steeple. The Board discussed the generator & testing, as well as the structural integrity of the steeple. The Board considered restricting the remote testing of the generator to 8am – 8 pm during the week. Gehring agreed to restrict it further to 9 am – 5 pm weekdays. There being no other questions or comments from the public or the Board, McDonough made a motion to waive a site view & close the public hearing. Magenheim seconded the motion & the Board voted (6-0) to waive the view & close the hearing. The Board then proceeded to deliberate. Wilson noted that the proposal meet the requirements of Section 6.1 with no aesthetic impact & sound mitigation. Bordonaro made a motion to grant the Special Permit under Section 6.1 with the conditions that the antennas & equipment are installed in conformance with the plans submitted; that the generator testing shall only occur on weekdays between 9am - 5pm and with the appropriate findings. Wilson seconded the motion & the Board voted (5-0) to grant the special permit under 6.1 with conditions. Bordonaro will write the decision.

Petition No.: Z-14-126

Premises affected: 67 Woburn Street

Petitioner: Doyle

Relief requested: Variance 4.1.2 & Special Permit 3.3.5 to raze an existing house & build a new one on a lot that lacks

the minimum required frontage

Present were: Brown (Chair); Magenheim (Clerk); McDonough, Boness & Bargnesi (Members); Bordonaro and Wilson

(Associate Members).

Attorney Kathryn Morin represented Mr. Doyle, also present along with engineer Dan Korovos. The lot, located in the SRC District, has 171' of frontage where 180' is required. The lot & proposed construction meet all other dimensional requirements, effectively eliminating all non-conformities except frontage. The existing house was constructed in approximately 1900. It will be razed along with other accessory buildings on the lot. A proposed detached barn will be used to store cars & will conform to dimensional requirements. There is no detriment to the public good and the proposal will not nullify the purpose or intent of the bylaw. Korovos reviewed the site plan for the Board. Brown noted

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that the plan submitted earlier this evening includes a bump-out on the front porch. Magenheim commented that the plan does not depict a driveway to the proposed garage/barn. There being no other questions or comments from the public or the Board, Magenheim made a motion to waive the site view & close the public hearing. Boness seconded the motion & the Board voted unanimously to waive the view & close the hearing. The Board then proceeded to deliberate the matter. McDonough made a motion to grant the special permit under 3.3.5 with the finding that the non-conformity will not be extended with the construction of a larger house, but will rather eliminate the other existing non-conformities and with the conditions that the new house shall be constructed in conformance with the plot plan & plans submitted. Bargnesi seconded the motion & the Board voted (5-0) to grant the special permit with conditions. Boness then made a motion to deny the requested variance from 4.1.2 as moot. McDonough seconded the motion & the Board voted (5-0) to deny the variance as moot. Magenheim will write the decision.

Petition No.: Z-14-127

Premises affected: 800 Federal Street

Petitioner: Schneider

Relief requested: Variance 5.2.14.2.a to erect a 2nd free-standing sign that exceeds the maximum allowed area Present were: Brown (Chair); Magenheim (Clerk); McDonough, Boness & Bargnesi (Members); Bordonaro and Wilson

(Associate Members).

Jay Kahn, of The Sign Center, represented the petitioner's request to erect a 2nd free-standing sign that will assist the public in identifying the building, which is set back from the road. Also present was Matt Volpe, of Schneider. The proposed sign is 8' high from grade (30" to bottom of sign from grade) and 120 sq. ft. The property is located at the end of Federal Street in the ID District & the nearest public right of ways are River Road & Route 93, approximately ½ mile away. The sign will be ground-mounted and 15' from the building. Volpe also noted that Federal Street abuts Chandler Road at the rear of the lot. The sign will have external cast lighting. Lisa Olsheskie, 3 Bedford Place, closest residential abutter asked about illumination. There being no other questions or comments from the public or the Board, Bargnesi made a motion to waive the site view & close the public hearing. Magenheim seconded the motion & the Board voted unanimously to waive the view & close the hearing. The Board then proceeded to deliberate. Boness, Bargnesi & McDonough all voiced their support of the proposal. Brown commented that the request is reasonable with the condition that the sign shall be installed in conformance with the plans & pictures submitted to the Board. McDonough made a motion to grant the variance with conditions. Magenheim seconded the motion & the Board voted (5-0) to grant the variance with conditions. Brown will write the decision.

Annual Election of Chair & Clerk

Brown explained that annual, the Board shall nominate & elect a Chair & Clerk. He noted his willingness to continue as the Chair & asked the Board if anyone else wishes to be Chair. No one voiced interested. McDonough made a motion to elect Brown as Chair and the Board voted unanimously (5-0) to elect Brown as Chair. Magenheim was the only member to express interest in being Clerk. McDonough made a motion to elect Magenheim as Clerk and the Board voted unanimously (5-0) to elect Magenheim as Clerk.

Bargnesi left the remainder of the meeting.

Petition No.: Z-14-128

Premises affected: 89-93 Main Street Petitioner: Second Chance Donuts

Relief requested: Special Permit 3.1.3.F.8 for the temporarily and seasonal placement of outdoor tables & chairs

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Present were: Brown (Chair); Magenheim (Clerk); McDonough, Boness (Member); Oltman (Associate Member).

Attorney Mark Johnson represented the applicants' request for a special permit to place outdoor tables & chairs in front of their new location located in the GB district. Brown designated Associate Member Oltman to sit in place of Bargnesi, who recused herself from the case. The proposal is to place 5 tables with 2 seats each in front of the new Dunkin Donuts. Bill Reinhard, one of the principals of Second Chance Donuts, reviewed the plan to put the tables/chairs on the 4' wide walkway directly adjacent to the building. He noted for the Board that the doorway into the new space has a wrought iron rail that will help delineate the tenant spaces. There being no other questions or comments from the public or the Board, Magenheim made a motion to waive the site view & close the public hearing. McDonough seconded the motion & the Board voted (5-0) to waive the view & close the hearing. The Board then proceeded to deliberate. The Board discussed time limits for the outdoor seating noting that it is seasonal and the weather will dictate when they can place them outside, as well as whether the furniture would be outside 24/7. Christopher Clemente, Inspector of Buildings, was allowed to speak. He informed the Board that the Town Clerk restricts outdoor alcohol licenses from April 1 – October 31. The Board discussed whether or not to define 'seasonal' and restrict the months for outdoor seating, as well as the preference for not having furniture left outside. The Board agreed that allowing seasonal outdoor seating from March 15 – October 31 annually is a reasonable restriction. Boness made a motion to grant the special permit with the condition that the outdoor tables & chairs can be placed outside between March 15 and October 31 annually. Magenheim seconded the motion & the Board voted (5-0) to grant the special permit with conditions. Brown will write the decision.

Petition No.: Z-14-106

Premises affected: 290 Lowell Street

Petitioner: O'Brien

Relief requested: Variances from §4.1.2 &/or 7.9.4.2 and for a Special Permit under §7.9 to subdivide a lot with an

historic structure on it into two

Present were: Brown (Chair); Magenheim (Clerk); McDonough & Boness (Members); Oltman (Associate Member sat for

Bargnesi); Wilson & Bordonaro (Associate Members, as alternates)

Member Boness disclosed that if the public hearing is continued to the October meeting, he will not be able to attend. Associate Member Wilson disclosed that she had hired Andover Consultants in the past. There were no objections to her participation. Attorney Mark Johnson & Engineer William MacLeod were present, along with the applicant. Johnson gave an overview of the project: an historic house on the corner lot of Lovejoy Rd & Lowell St will be renovated, the lot subdivided & a new single family dwelling will be constructed on the new lot. Variances from 4.1.2 & 7.9.4.3.b are requested for the front setback of the existing house on the Lovejoy Road frontage. Variances are requested from 4.1.2 & 7.9.4.2 for lot area. Special permits are requested under §3.3.5 & 7.9. Member McDonough disclosed that Verdeco Designs, involved in this project, is currently doing work for her. There was no objection to her participation. The Board discussed the following issues: the dimensional requirements in 4.1.2 & 7.9 and to what they apply; the memo from the Inspector of Building's memo re: 64 Summer Street & 21 River Street cases [7.9.4.7 applies to the existing historic structures, while the new lots must comply with the reduced dimensional requirements]; and whether or not a variance is required for the reduced dimensions. Johnson informed the Board that this corner lot had a portion taken by the Town; otherwise it would have 30,000 sq. ft., thus the requested variance for area. If granted a special permit under 7.9, each lot will have slightly less than 15,000 sq. ft. He cited Section 4.1.3.4 regarding takings creating a hardship. Johnson further explained that the existing barn is in terrible condition and has been granted permission by Preservation Commission to be demolished. A portion of the existing, historic home will also be razed. The lot is served by municipal water & sewer as required.

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MacLeod, project engineer, gave an overview of the plan, including the Essex County lay-out of the road, which, if not for the taking, the lot would comply with the area requirement. There are no wetlands within 100' of the lot. He noted that the side lot line of the new lot containing the historic house abuts the new lot on Lovejoy Rd.

Mark Yanowitz, architect, reviewed the renovations & design for the existing house as well as the new home. The historic house was constructed in the early 1900's. The proposed house will be a 'classic cape'. There is some water & mold damage in the existing home, which has a stable foundation but undersized framing by today's standards. The new home will be 2 stories, similar to the Federalist style with a farmer's porch.

Karen Herman, Preservation Commission chair of 50 Sunset Rock Rd, Andover, stated that the Preservation Commission supports the application. The historic house, built prior to 1940 is registered as historic. She reviewed its history, noting that a portion of the existing structure was moved in 1922 from 277 Lowell St. The Commission feels that it is at risk of demolition. The Board discussed the fact that the combination of 2 historic houses remain on site, the proposed changes/additions to this structure, how much of the existing structure will remain [foundation, floor system and one rear & side wall will remain]. Herman reminded the Board that changes to the historic house must meet the MA Historic Commission's requirements. Johnson emphasized that MA Historic prefers a total package before their review. Johnson submitted photos of the existing house & barn. It was noted that the area of the existing house is approximately 1500 sq. ft. and the proposed will be 2200 sq. ft.

Brown noted for the record a memo from 6 abutters in opposition that was received today. James Tammaro, direct abutter at 143 Lovejoy Rd., identified himself to the Board as one of the memo's co-authors. Brown asked the Board to read the memo for discussion next month. Tony Stankowitz, 4 Holly Terrace, abutter to the rear & signatory of the memo, voiced concern over increased traffic congestion & decreased traffic safety, increased density, as well as water table issues that with new construction will render his lot unusable. Steve Naught, 133 Lovejoy Rd., voiced concern over the change in neighborhood character with such a subdivision. He urged the Board to take a site view and to consider a long term plan. James Tammaro, 140 Lovejoy Rd., pointed out that Section 7.9.4.7 specifically calls out an altered parent parcel requiring the new lot to conform to SRB dimensional requirements, while the parent parcel can be rendered non-conforming. This proposal does not meet that requirement. Richard Ross, 288 Lowell St., voiced similar concerns to the other abutters. Kevin O'Brien, applicant, explained that soil testing has been conducted and offered to submit the results. Johnson emphasized that at the IDR on 7/29/14 no concerns were raised regarding safety. He added that the intent of the zoning bylaw, as approved by Town Meeting, is to create such lots to preserve historic houses. The Board discussed whether they'd conduct a group site view or view individually. Brown submitted for the record a guide to the decision-making process under Section 7.9. The Board will attempt to find a mutually convenient date & time to view en groupe and post the view at least 48 hours prior. Karen Herman submitted her written comments. Johnson stated that his client has the property under agreement and will submit a letter of authorization. There being no other questions or comments from the public or the Board, Magenheim made a motion to continue the public hearing to 10/2/14. Wilson seconded the motion & the Board voted (7-0) to continue the hearing to 10/2/14.

Approval of Minutes

7/10/14 – Oltman made a motion to approve the minutes of 7/10/14. Magenheim seconded the motion & the Board voted (7-0) to approve the minutes.

7/24/14 – Magenheim made a motion to approve the minutes of 7/24/14. Boness seconded the motion & the Board voted (7-0) to approve the minutes.

There being no other business of the Board, McDonough made a motion to adjourn the meeting at 11 pm. Magenheim seconded the motion & the Board voted unanimously to adjourn the meeting at 11 p.m.